UNIVERSITY OF KENTUCKY
APPLICATION FOR NEW COURSE

1. Submitted by College of Medicine Date September 25, 2001
Department/Division offering course School of Public Health

2. Proposed designation and Bulletin description of this course
   a. Prefix and Number SPH 750
   b. Title* Legal Basis of Public Health
      *NOTE: If the title is longer than 24 characters (including spaces), write
      A sensible title (not exceeding 24 characters) for use on transcripts
      Public Health Law
   c. Lecture/Discussion hours per week 3
   d. Laboratory hours per week 0
   e. Studio hours per week 0
   f. Credits 3
   g. Course description
      Introductory course for nonlawyers in selected aspects of the law relating to public health.
   h. Prerequisites (if any)
      Enrollment in a Public Health degree program or consent of the instructor.
   i. May be repeated to a maximum of ________________ (if applicable)

4. To be cross-listed as

   Prefix and Number ___________________________ Signature, Chairman, cross-listing department

5. Effective Date Fall 2003 (semester and year)

6. Course to be offered
   ☑ Fall ☑ Spring ☐ Summer

7. Will the course be offered each year? ☑ Yes ☐ No
   (Explain if not annually)

8. Why is this course needed?
   This course fulfills a concentration requirement in the Public Health curriculum.

9. a. By whom will the course be taught? Julia F. Costich, JD, Ph.D.
   b. Are facilities for teaching the course now available? ☑ Yes ☐ No
      If not, what plans have been made for providing them?
10. What enrollment may be reasonably anticipated?  
   20-25

11. Will this course serve students in the Department primarily?  
   ☒ Yes  ☐ No

   Will it be of service to a significant number of students outside the Department?  
   ☐ Yes  ☒ No

   If so, explain.

Will the course serve as a University Studies Program course?  
   ☐ Yes  ☒ No

   If yes, under what Area?

12. Check the category most applicable to this course

   ☒ traditional; offered in corresponding departments elsewhere;
   ☐ relatively new, now being widely established
   ☐ not yet to be found in many (or any) other universities

13. Is this course part of a proposed new program?  
   ☐ Yes  ☒ No

   If yes, which?

14. Will adding this course change the degree requirements in one or more programs?*  
   ☐ Yes  ☒ No

   If yes, explain the change(s) below

15. Attach a list of the major teaching objectives of the proposed course and outline and/or reference list to be used.

16. If the course is a 100-200 level course, please submit evidence (e.g., correspondence) that the Community College System has been consulted.

17. Within the Department, who should be contacted for further information about the proposed course?

   Name  Joel Lee, Dr.P.H.  Phone Extension  323-5059 x285

*NOTE: Approval of this course will constitute approval of the program change unless other program modifications are proposed.
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Signatures of Approval:

___________________________________________  ______________
Department Chair  Date

___________________________________________  ______________
Dean of the College  Date

___________________________________________
Date of Notice to the Faculty

___________________________________________  ______________
*Undergraduate Council  Date

___________________________________________  ______________
*University Studies  Date

___________________________________________  ______________
*Graduate Council  Date

___________________________________________  ______________
*Academic Council for the Medical Center  Date

___________________________________________  ______________
*Senate Council (Chair)  Date of Notice to University Senate

*If applicable, as provided by the Rules of the University Senate

___________________________________________
ACTION OTHER THAN APPROVAL

Rev 11/98
School of Public Health  
SPH 750  
Legal Basis of Public Health

3 Credits

Class schedule and location  
The class will meet at the following times and location: Wednesday 3:00pm-5:30pm in CAHP 115.

Course description  
SPH 750 is an introductory course for nonlawyers in selected aspects of the law relating to public health. Major attention is paid to fundamental legal principles and legal reasoning, recurring legal issues confronted by public health agencies, and the use of law to advance a public health agenda. Emphasis is placed on giving students tools to use when they encounter law-related problems in their professional careers. The course is intended for students in all divisions in Public Health.

Prerequisites  
Graduate standing in the School of Public Health, and SPH 602 or SPH 662, or consent of instructors.

Instructional Methods  
Class sessions typically consist of a brief introductory lecture followed by guided discussion of original source materials, e.g. court decisions, statutes, etc. The purpose of this instructional method is to expose students to laws and legal concepts in actual practice, and to develop skills in reading and understanding legal materials. Class sessions are casual, lively and nonthreatening. Advance preparation and active participation are important.

Course objectives  
This class is intended to enable students to:

• Understand the structure and function of the U.S. legal system

• Become familiar with the authority and responsibility of government to protect and promote community health, and the limitations imposed by the legal system

• Identify the constitutional and statutory foundations of the core functions of public health agencies at various levels of government
• Acquire skills in identifying and analyzing legal issues
• Broaden critical reading, policy analysis and communication skills
• Develop an awareness of the role of law in advocacy for community health
• Work more effectively with legal counsel

Course Materials
The reading assignments for this course will be extensive and challenging. We will use Lawrence Gostin's textbook, *Public Health Law* (University of California Press, 2000) as background reading, supplemented by original source materials selected by the instructor and compiled in a course reader.

Course Grading
There will be a mid-term and a final exam. Grading will be determined as follows:

- Mid-term exam  20 percent
- Final exam  60 percent
- Class participation  20 percent

The mid-term will be a relatively short, in-class short answer exam designed to tell the instructor and students how well they are understanding the course materials at that point. The final will be a closed-book, short answer and essay exam.
Course grading will be based upon the criteria stated in the University Bulletin.
Legal Basis of Public Health

Course Outline

Introduction and course overview

1. Introduction to the U.S. legal system, including the institutions of government at the federal, state, and local levels; sources of law; and concepts of legal rights.


Exercise of the police power to protect public health

2. Nature and extent of the government's authority to take action to protect the public's health, and the constitutional and other legal limitations on the government's exercise of that authority. Introduction to constitutional principles of due process and equal protection.

Assigned reading: Gostin text, chapter 8, Commonwealth v. Coffman.

3. Challenges and dilemmas relating to confinement of individuals for prevention or treatment of disease; public health and law enforcement; legal issues posed by multidrug resistant tuberculosis; distinction between procedural and substantive rights.

Assigned reading: Kentucky public health statutes and related material, Ex parte Martin, Greene v. Edwards, City of Newark v. JS.

4. First and Fourth Amendment issues in public health and AIDS.


5. Public health and drug abuse.

Assigned reading: Commonwealth v. Hall, Ferguson v. City of Charleston, Edmund v. Indianapolis,

Administrative Law

6. Concept of direct (command and control) regulation; legal rules governing the administration of government public health agencies; rulemaking process; administrative review of rulemaking; judicial deference to administrative agency determinations.

May 30, 2000 (No. 99-1426); *Chevron v. NRDC*, 104 S.Ct. 2778 (1984); Kentucky administrative regs.

7. Specific examples of issues in public health regulation (e.g., controversy over FDA regulation of tobacco, etc.); comparison of legislative vs. administrative process in creating public health policy.


8. The law of nuisance and its impact on modern public health practice; tension between legal authority of public health professionals to identify and abate nuisances while not infringing on the rights of individuals.


9. History and purpose of land use planning to protect public health and safety; legal methods used to regulate land use at the local, state and federal level.

Assigned Reading: State and local statutes and ordinances; Kentucky cases.

10. Federal and state environmental regulation to protect public health, focusing on “brownfields” redevelopment, mining, and environmental justice issues.

Assigned Reading: State and federal statutes and cases to be determined.

11. Legal issues surrounding health data collection, including confidentiality and privacy, subpoenas of health records and scientific data, etc.

Assigned reading: Summary of HIPAA, NPDB regulations; state and federal cases.

12. Recent public health-related legislation from introduction to enactment.

Assigned reading: To be determined

**Contracting for public health services**

13. Introduction to law of contracts, particularly government contracts.

Tort Law

15. Introduction to the basic elements of a tort claim, corporate negligence, and strict liability


16. Individual, class action and government lawsuits against makers of harmful products, e.g., tobacco industry, gun industry, lead paint manufacturers, vehicle manufacturers.

Assigned reading: Gostin text, chapter 10, Adam Cohen, Are Lawyers Running America? Their lawsuits are setting policy on guns, tobacco and now HMOs. Who elected them?, Time Magazine, July 17, 2000, Vol. 156 No. 3;

17. (March 22) Mid-term examination.

Regulation of Speech, Ideas, and Communication

18. (April 3) Public health organizations frequently try to influence personal health behaviors through health promotion campaigns and other uses of the mass media. What are the legal limitations and restrictions on this kind of activity? How far can public health advocates go in disparaging commercial products or counter-advertising without committing the tort of defamation?


Teaching method: Lecture and discussion, hypotheticals based on potential job-related questions (e.g., what a public health department employee can or cannot say at a hearing about a product or company); hypothetical questions about food protection laws.

19. Government health organizations also try to influence public opinion and behavior indirectly, by regulating advertising of legal but harmful products such as tobacco and alcohol. How far can government go in regulating commercial speech without restricting First Amendment rights?


20. Government agencies sometimes also try to limit speech by organizations that receive government funding, e.g., by requiring federally-funded clinics to give patients pre-scripted statements about abortion, or by restricting political activity by tax-exempt organizations. How far can government go in regulating political speech?

**Federalism, State's Rights, and Local Control**

21. What happens when there is a conflict between federal and state law, or state and local law, relating to public health? This class addresses the complicated issue of preemption jurisprudence.


22. Implications of the Supreme Court's evolving concept of federalism for allocation of responsibility for public health protection between the federal government and the states.


**Human Rights in a Public Health Context**

23. Federal regulations on protection of human subjects and the informed consent process.

Assigned reading: Gostin text, 45 CFR part 74

24. (April 24) Civil rights and constitutional protections for certain classifications of individuals based on race, religion, national origin, sexual orientation, etc.


25. Americans with Disabilities Act and other statutory rights for vulnerable populations.

Assigned reading: To be determined.


27. Review
28. Final examination